

**PT 98-87**

**Tax:           PROPERTY TAX**  
**Issue:       Charitable Ownership/Use**

**STATE OF ILLINOIS  
DEPARTMENT OF REVENUE  
OFFICE OF ADMINISTRATIVE HEARINGS  
SPRINGFIELD, ILLINOIS**

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<b>ST. MARY'S HOSPITAL</b>	)		
<b>OF EAST ST. LOUIS, INC.</b>	)	<b>Docket #</b>	<b>96-82-69</b>
<b>Applicant</b>	)		
<b>v.</b>	)	<b>Parcel Index #</b>	<b>[01-13-301-001] 9000</b>
	)		
<b>THE DEPARTMENT OF REVENUE</b>	)	<b>Barbara S. Rowe</b>	
<b>OF THE STATE OF ILLINOIS</b>	)	<b>Administrative Law Judge</b>	

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**RECOMMENDATION FOR DISPOSITION**

Appearances: Mr. Stephen R. Wigginton, Becker, Paulson, & Hoerner, P.C., Attorney at Law for St. Mary's Hospital of East St. Louis, Inc.

Synopsis:

The hearing in this matter was held at Illinois Department of Transportation Offices, Collinsville, Illinois, on February 27, 1998, to determine whether or not a portion of St. Clair County Parcel Index No. [01-13.0-301-001] 9000 qualified for exemption during the 1996 assessment year.

Mr. Scott Steiner, Director of Physician and Network Development for St. Mary's Hospital of East St. Louis (hereinafter referred to as the "Applicant") was present and testified on behalf of the applicant.

The issues in this matter include, first, whether the applicant was the owner of the parcel during the 1996 assessment year; secondly, whether the applicant is a charitable organization; and lastly, whether the portions of the parcel at issue were used by the applicant for charitable purposes during the 1996 assessment year. Following the submission of all the evidence and a

review of the record, it is determined that the applicant owned the parcel during the entire 1996 assessment year. It is also determined that the applicant is a charitable organization. Finally, it is determined that the applicant used a portion of the property at issue for charitable purposes during the 1996 assessment year.

Findings of Fact:

1. The jurisdiction and position of the Department that a part of St. Clair County Parcel Index No. [01-13.0-301-001] 9000 did not qualify for a property tax exemption for the 1996 assessment year was established by the admission into evidence of Department's Ex. Nos. 1 through 5. (Tr. p. 12-13)

2. On April 22, 1997, the Department received a property tax exemption application from the St. Clair County Board of Review for Permanent Parcel Index No. [01-13.0-301-001] 9000. The applicant had submitted the request and the board recommended a full year exemption for the 1996 assessment year. The Department assigned Docket No. 96-82-69 to the application. (Dept. Grp. Ex. No. 2)

3. On September 5, 1997, the Department denied in part the requested exemption application finding that a portion of the property was not in exempt use. Specifically, the Department found that the medical office building is exempt for 45% of the building and site and taxable for 55% of the building and site, and that the parking lot is taxable. (Dept. Ex. No. 3)

4. The applicant timely protested the decision and requested a hearing in the matter. (Dept. Ex. No. 4)

5. The hearing at the Department of Transportation Offices in Collinsville, Illinois, on February 27, 1998, was held pursuant to that request. (Dept. Ex. No. 5)

6. The applicant acquired the subject property by a warranty deed dated January 4, 1966. (Dept. Ex. No. 2 pp. 3-5)

7. The parcel is 504 feet by 300 feet. (Dept. Ex. No. 2 p. 1)

8. The Department, pursuant to Docket No. 92-82-1265, found that Parcel Index No.

01-13.0-301-001 9000 was in exempt ownership and use for 100% of the 1992 assessment year. The applicant owned the parcel and had a four-story 212,375 square foot acute care hospital on the subject parcel. The parcel measured 504 feet by 300 feet. The exemption application at issue has the same parcel index number with brackets around the first four sequences of numbers. (Dept. Ex. No. 2 pp. 1, 9-11)

9. According to the 1996 application at issue herein, located on the subject property, identified by Permanent Parcel Index No. [01-13.0-301-001] 9000, is a two-story 30,000 square foot medical office building. (Dept. Ex. No. 2 p. 1)

10. Construction of the Windsor Medical Art Center began in 1993. Portions of the building were completed in July and September 1994. (Tr. p. 16)

11. The Windsor Medical Art Center, also known as the medical office building, houses a retail pharmacy, an optical center, a medical supply company, and several physician offices. The activities began in the building on July 10, 1994. The medical office building is connected with the first floor of St. Mary's Hospital. (Dept. Ex. No. 2 p. 1; Tr. p. 14)

12. On January 1, 1996, the applicant entered into a one year lease with Nurul Huda, an Opthamologist, for 940 square feet of space in Suite No. 216 of the Windsor Medical Arts Center for a yearly rent of \$13,630, payable in monthly installments of \$1,135.83. Section 33 of the lease provides that the lessee will pay a proportionate share of real property taxes, if they are assessed. Section 34 states that the lessor shall provide a parking lot and one reserved space for all physicians under the lease. In addition, the lessor shall provide unallocated parking spaces on a first come, first serve basis to all employees and patients of the medical facility. (Dept. Ex. No. 2 pp. 14-33)

13. On April 5, 1994, the applicant entered into a four year lease with Dr. V. Jose Thomas and Dr. Philip Dennis for 1770 square feet of space in Suite No. 200 of the Windsor Medical Arts Center beginning September 1, 1994, for a monthly rent of \$2,138.76. Section 35 of the lease provides that the lessee will pay a proportionate share of real property taxes, if they are assessed. Section 36 states that the lessor shall provide a parking lot and one reserved space

for all physicians under the lease. In addition, the lessor shall provide unallocated parking spaces on a first come, first serve basis to all employees and patients of the medical facility. (Dept. Ex. No. 2 pp. 34-48)

14. On April 10, 1996, the applicant entered into a one year lease with Cengiz Sumer, M. D., a psychiatrist, for 625 square feet of space in Suite No. 208 of the Windsor Medical Arts Center beginning May 1, 1996, for a yearly rent of \$9,062.52, payable in monthly installments of \$755.21. Section 33 of the lease provides that the lessee will pay a proportionate share of real property taxes, if they are assessed. Section 34 states that the lessor shall provide a parking lot and one reserved space for all physicians under the lease. In addition, the lessor shall provide unallocated parking spaces on a first come, first serve basis to all employees and patients of the medical facility. (Dept. Ex. No. 2 pp. 49-68)

15. On August 7, 1995, the applicant entered into a four year lease with David Blissenbach, Owner of the Olde Tyme Optical Shoppe, for 503 square feet of space in Suite No. 264 of the Windsor Medical Arts Center beginning September 1, 1995, for a yearly rent of \$7,368.95, payable in monthly installments of \$614.08. Section 33 of the lease provides that the lessee will pay a proportionate share of real property taxes, if they are assessed. Section 34 states that the lessor shall provide a parking lot and one reserved space for all physicians under the lease. In addition, the lessor shall provide unallocated parking spaces on a first come, first serve basis to all employees and patients of the medical facility. The lease also provides for payment of \$4,827.00 for unbudgeted finishing costs. (Dept. Ex. No. 2 pp. 69-90)

16. On May 4, 1995, the applicant entered into a four-year lease with Dr. Carla Lewis-Longley for 1850 square feet of space in Suite No. 256 of the Windsor Medical Arts Center beginning May 1, 1995, for a monthly rent of \$2,235.42. Section 35 of the lease provides that the lessee will pay a proportionate share of real property taxes, if they are assessed. Section 36 states that the lessor shall provide a parking lot and one reserved space for all physicians under the lease. In addition, the lessor shall provide unallocated parking spaces on a first come, first serve basis to all employees and patients of the medical facility. The lease also provides for

payment of \$50,793.00 for unbudgeted finishing costs. (Dept. Ex. No. 2 pp. 91-107)

17. On April 29, 1994, the applicant entered into a four year contract with Medicate Pharmacy, Inc. for 1531 square feet of space in Suite No. 100 of the Windsor Medical Arts Center beginning September 1, 1994, for a monthly rent of \$1,881.85. Section 35 of the lease provides that the lessee will pay a proportionate share of real property taxes, if they are assessed. Section 36 states that the lessor shall provide parking spaces on a first come, first serve basis to all employees, patients, or retail customers of the medical facility. The lease also provides for payment of \$6,969.00 for unbudgeted finishing costs. (Dept. Ex. No. 2 pp. 108-123)

18. On April 27, 1994, the applicant entered into a four-year lease with Fox Med-Equip Services for 878 square feet of space in Suite No. 108 of the Windsor Medical Arts Center beginning September 1, 1994, for a monthly rent of \$1,079.21. Fox Med-Equip Services uses the leased premises for a durable medical equipment retail store. Section 35 of the lease provides that the lessee will pay a proportionate share of real property taxes, if they are assessed. Section 36 states that the lessor shall provide parking spaces on a first come first serve basis to all employees, patients, or retail customers of the medical facility. (Dept. Ex. No. 2 pp. 124-139)

19. On March 12, 1994, the applicant entered into a four-year lease with Dr. Maria Cabal for 880 square feet of space in Suite No. 116 of the Windsor Medical Arts Center beginning September 12, 1994, for a monthly rent of \$1,063.33. The rent shall increase by 4% during the second year of the lease and an additional 3% of any subsequent year covered by the terms of the lease. Section 35 of the lease provides that the lessee will pay a proportionate share of real property taxes, if they are assessed. Section 36 states that the lessor shall provide a parking lot and one reserved space for all physicians under the lease. In addition, the lessor shall provide unallocated parking spaces on a first come, first serve basis to all employees and patients of the medical facility. (Dept. Ex. No. 2 pp. 140-155)

20. The total amount of space that the applicant rented to the above entities in 1996 was 8,977 square feet. This number comes from adding the above rental areas as shown in the leases. (Tr. p. 16)

21. There is some confusion regarding the total amount of rented space in the Medical Arts Building. The applicant asserted that 5,963 square feet was rented in the building as shown on the “summary of rental space” document submitted with the application. On the summary, the applicant apparently used the suite numbers rather than the square footage for Dr. Sumer, Mr. Blissenbach, and Dr. Lewis-Longley. Applicant’s witness testified that the rental space was 8,881 square feet. (Dept. Ex. No. 2 pp. 156; Tr. p. 16; Tr. pp. 22)

22. The amount of rental space of 8,977 square feet also conflicts with the amount of rental space shown on a letter dated August 5, 1997, to the Department in response to a memo from the Department dated July 11, 1997. In its response, the applicant stated that the total amount of rental space was 4,963 square feet. (Dept. Ex. No. 2 p. 159)

23. There is also confusion regarding the total square footage of the building. The application form and the letter dated August 5, 1997, both state that there are 30,000 square feet available in the building. The testimony was that there was approximately 31,500 square feet, with no supporting documentation. By adding the square footage in the rental agreements plus the other square footage shown on the floor plans that the applicant submitted with the summary of rental space, the total square footage of the building is 29,368 square feet. (Dept. Ex. No. 2 pp. 1, 159; Tr. p.16)

24. The remaining square footage is either vacant, unleased, or is used by physicians who are employees of the applicant’s not for profit hospital. (Dept. Ex. No. 2 pp. 157-158.)

25. The hospital has approximately 26 physicians who use 13,014 square feet of space in the building. The square footage of that area is depicted on the applicant’s floor plans submitted with the summary of rental space. (Dept. Ex. No. 2 pp. 157, 158; Tr. p. 17)

26. There are two areas on the second floor of the building that are designated as “unleased”. Area (A) is comprised of 5,604 square feet. Area (B) is comprised of 1,573 square feet. (Dept. Ex. No. 2 pp. 157 & 158; Tr. p. 27)

27. The applicant asserts that all of the area of the building that is not leased, or 22,547 square feet by their calculations, should be tax exempt. (Tr. p. 22; 26)

28. The applicant submitted a “room usage weekly report” for 1997 that was asserted to be an example of the type of groups that used the conference and meeting rooms at the Windsor Medical Arts Building and St. Mary’s Hospital in 1996. The hospital has four meeting rooms and the medical building has two. (Applicant’s Ex. No. 2; Tr. p. 22-30)

29. The room usage weekly report shows that in the first week of February, the Homemakers Trg. Sess. met in the Windsor Building Room “B” three times. The exhibit lists 10 meetings that were held in the medical building rooms “A” and “B” for the periods 2/3-2/9/97, 3/24-3/28/97, 4/21-4/27/97, 5/5-5/11/97 and 6/2-6/8/97. A total of 122 meetings were listed on the exhibit. The applicant does not charge a fee for that usage. (Applicant’s Ex. No. 2; Tr. pp. 22-26)

30. Also at issue is a parking lot on the subject parcel. It has spaces for 120 vehicles. (Tr. p. 18)

31. Customers of the building, visitors to St. Mary’s Hospital and the Windsor Medical Center, employees of both the hospital and clinic, and physicians of the hospital and the clinic all use the parking spaces. (Tr. pp. 18, 20-)

32. The parking lot was constructed for the Windsor Medical Art Center and St. Mary’s Hospital. There is no fee for parking in the lot. The applicant has an additional parking lot. (Tr. pp. 18-20)

33. There are ten spaces in the parking lot at issue that are operated by a card/key access system. Those spaces are reserved for physicians that work in the hospital and the Windsor Medical Center. There is no designation as to whether the physician is leasing area in the Windsor Medical Center or is on the staff of the hospital. (Tr. pp. 20, 30)

34. There is also a heliport located on the parking lot. The hospital is a level 2 hospital and as such there are a number of factors that the hospital must fulfill. The level 2 rating requires a heliport and the ability to transport burn victims, patients with severe neck injuries, children with pediatric injuries, and other such injuries to a level 1 hospital that is able to treat the injuries. (Tr. p. 19)

35. The heliport is 100 feet by 92 feet. It is located in an area behind the Doctor's key/card parking area. (Tr. p. 20, Plaintiff's Ex. No. 1)

36. I take administrative notice of Docket No. 92-82-1265 in which the Department granted an exemption to the charitable hospital located on Parcel Index No. 01-13.0-301-001 9000. (Dept. Ex. No. 2 p. 9)

Conclusions of Law:

Article IX, §6 of the Illinois Constitution of 1970, provides in part as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

This provision is not self-executing but merely authorizes the General Assembly to enact legislation that exempts property within the constitutional limitations imposed. City of Chicago v. Illinois Department of Revenue, 147 Ill.2d 484 (1992)

Pursuant to the constitutional grant of authority, the legislature has enacted provisions for property tax exemptions. One of the provisions at issue is found at 35 **ILCS** 200/15-65, which exempts certain property from taxation as follows:

All property of the following is exempt when actually and exclusively used for charitable or beneficent purposes, and not leased or otherwise used with a view to profit:

(a) institutions of public charity;. . .

(c) old people's homes, facilities for persons with a developmental disability, and not-for-profit organizations providing services or facilities related to the goals of educational, social and physical development,. . . .

Another provision that is at issue is the statute granting an exemption to parking areas, found at 35 **ILCS** 200/15-125. The statutory provision states in part as follows:

Parking areas, not leased or used for profit, when used as a part of a use for which an exemption is provided by this Code and owned by any school district, non-profit hospital, school, or religious or charitable institution which meets the qualifications for exemption, are exempt.



As established in Docket No. 92-82-1265, the applicant's hospital is entitled to a property tax exemption as owned and used for charitable purposes. It does not escape me that the applicant began to use the subject medical building in 1994 for leasing purposes, but failed to apply for a change in usage of property exempt from tax until 1996. It is the duty of a titleholder or owner of property, pursuant to 35 ILCS 200/15-5, to file with the chief county assessment officer, on or before January 31 of each year, an affidavit stating whether there has been any change in the ownership or use of a parcel that has been granted a property tax exemption.

The exemption application that I have before me is for the 1996 assessment year. Since a cause of action for taxes for one year is not the same or identical with a cause of action for taxes for subsequent years, the decision that property was taxable in certain years was not *res judicata* as to status of property during subsequent years. Turn Verein Lincoln v. Paschen, 20 Ill. 2d 229 (1960) This means that the only question before me is the use of the areas at issue in 1996.

The applicant does not dispute that the areas that are leased to the six doctors, the pharmacy, the medical equipment business, and the optical shop are not entitled to an exemption. The Appellate Court in Mason District Hospital v. Tuttle, 61 Ill.App.3d 1034 (4<sup>th</sup> Dist. 1978) held that a medical center built by a hospital to attract doctors to the area was not entitled to a tax exemption. The medical center leased areas to physician, as the applicant does in this case. The applicant is correct that the leased areas are not entitled to an exemption. The applicant asserts, however, that all the remaining areas and the entire parking lot are entitled to an exemption under the above statutes.

Regarding the Windsor Medical Arts Building on the subject parcel, I find that the applicant has only established that 13,014 square feet, or the area used by the 26 physicians employed by the hospital, qualifies for exemption. The remainder of the building is leased, except for the two areas on the second floor that are designated as un-leased, rooms "A" and "B". For those two rooms, the 1997 "room usage weekly report" showed that these areas are used sporadically, if at all, for meetings of unknown groups of the hospital and/or affiliated groups. Vacant parcels or buildings do not qualify for a property tax exemption. The Illinois

Appellate Court found that a church owned building which was not used for any purpose and was boarded up during the taxable years in question did not qualify for a property tax exemption for those years. Antioch Missionary Baptist Church v. Rosewell, 119 Ill.App.3d 981 (1st Dist. 1983). Also, the Illinois Supreme Court in The People v. Catholic Bishop, 311 Ill. 11 (1924) stated that the intention to use a subject property for an exempt use is not sufficient to qualify for a tax exemption. I therefore find that the applicant has established that only 45% of the Windsor Medical Art Center, the area used by the physicians employed by the hospital, and the corresponding land qualifies for a property tax exemption for the 1996 assessment year.

Turning to the parking lot, there are eight parking spaces that the applicant has guaranteed pursuant to the leases that were in effect for 1996. The key/card access area has room for ten cars. The correlation between the number of spaces guaranteed in the leases plus two additional spaces, if the un-leased offices “A” and “B” became leased to physicians, would make ten guaranteed parking spaces available for physicians leasing office space in the Windsor Medical Arts Building.

The applicant has failed to establish that the key/card area was used exclusively for parking in conjunction with the use of an exempt entity, as required by the above statute. I therefore find that the area of the parking lot controlled with the key/card access is taxable.

The area that contains the heliport is used in conjunction with the level 2 rating of the hospital. It is used to transport patients to level 1 hospital facilities. As such, it is used in conjunction with the exempt hospital’s charitable activities. I therefore find that the section of the parking lot measuring 100 feet by 92 feet, containing the heliport, is entitled to a property tax exemption.

The rest of the parking lot is used indiscriminately by employees of the medical building and the hospital, patients of physicians that lease space in the medical building as well as patients of the hospital, and also clients of the three for-profit businesses that operate in the medical building. The Appellate Court held that where an applicant could not allocate space between an exempt use and a non-exempt use, the entire space was taxable. Evangelical Hospitals Corp. v.

Department of Revenue, 223 Ill.App.3d 225 (2<sup>nd</sup> Dist. 1991). There is no way to identify which parking spaces were used for nonexempt purposes. Where as here, the property as a whole was used for both exempt and nonexempt purposes, it will qualify for exemption only if the exempt use is the primary use and the non-exempt use is only incidental. Illinois Institute of Technology v. Skinner, 49 Ill.2d 59 (1971); MacMurray College v. Wright, 38 Ill.2d 272 (1967). I therefore find that the rest of the parking lot is taxable.

It is therefore recommended that 45% of the Windsor Medical Arts Building and the corresponding land be found to be in exempt use for the 1996 assessment year, and that 55% of the building and the corresponding land be taxable. It is also recommended that the section of the parking lot measuring 100 feet by 92 feet, containing the heliport, be exempt from property taxation for the 1996 assessment year. It is also recommended that the remainder of the parking lot remain on the tax rolls for the 1996 assessment year and be assessed to the applicant, the owner thereof.

Respectfully Submitted,

Barbara S. Rowe  
Administrative Law Judge  
October 30, 1998